

**COMMONWEALTH OF MASSACHUSETTS
TOWN OF WESTFORD
WARRANT**

Middlesex, ss.

To the Constable of the Town of Westford, in said County,

GREETINGS:

You are required in the name of the Commonwealth aforesaid, to notify and warn all inhabitants of said Town qualified to vote in elections, and also in Town affairs, to meet at the Abbot School Gymnasium at Depot Street on the following date:

**Monday, October 15, 2012
(voter registration deadline, Friday, October 5, 2012 at 8:00pm)**

at 7:30 o'clock in the evening, then and there to act upon the following Articles:

Report to Town Meeting regarding business plan for the Ambulance Enterprise Fund as requested by resolution at the 2012 Annual Town Meeting.

FINANCIAL

ARTICLE 1:	Fiscal Year 2013 Budget Adjustments	<i>Town Manager</i>
To see if the Town will vote to raise and appropriate various sums in order to supplement operating budgets for the Fiscal Year ending June 30, 2013;		
Parker Village Land Acquisition for Fire Station		
		\$36,000
OPEB Actuarial Study		
		\$ 6,400
Police Personal Services		
		\$57,500
MEGA assessment		
		\$17,008
and further;		
To see if the Town will vote to appropriate various sums from Ambulance Free cash in order to supplement operating budgets for the Fiscal Year ending June 30, 2013;		
Ambulance Free cash...		
Overtime		\$ 5,000
Medical supplies		\$20,000
CPR machine		\$13,100
Or act in relation thereto.		
ARTICLE 2:	Fiscal Year 2013 Budget Transfers	<i>Town Manager</i>
To see if the Town will vote to transfer various sums between and among various accounts for the Fiscal Year ending June 30, 2013;		

School Operating Budget to Police Personal Services Budget

\$ 20,000

Or act in relation thereto.

ARTICLE 3:	Unpaid Bills Prior Fiscal Years	<i>Town Manager</i>
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To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to pay for unpaid bills of prior fiscal years for various Town departments in accordance with the provisions of [Massachusetts General Laws Chapter 44, Section 64](#);

Or act in relation thereto.

ARTICLE 4:	Perchlorate Stabilization Fund and Perchlorate Expenses	<i>Board of Selectmen</i>
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To see if the Town will vote to appropriate by taxation, by transfer from available funds, by borrowing, or any combination thereof, \$375,000 (THREE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS) to the Perchlorate Stabilization Fund for the specific purpose of providing available funds for future perchlorate contamination remediation and any other related costs;

and further;

To see if the Town will vote to appropriate the sum of \$100,000 (ONE HUNDRED THOUSAND DOLLARS) from the Perchlorate Stabilization Fund, for the purpose of providing funds to address associated issues regarding perchlorate contamination;

Or act in relation thereto.

ARTICLE 5:	Capital Requests	<i>Town Manager</i>
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To see if the Town will vote to appropriate a sum of money by taxation, by transfer from available funds, by borrowing, or any combination thereof, to provide for Capital Requests;

Or act in relation thereto.

ARTICLE 6:	Reduce Amount Raised by Taxes in Fiscal Year 2013	<i>Finance Committee</i>
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To see if the Town will vote to take specific amounts from available funds and to direct the Assessors to reduce the net amount to be raised for Fiscal Year 2013;

Or act in relation thereto.

ARTICLE 7:	Accept Massachusetts General Laws Chapter 59 § 5 Cl 56 Related to Abatements to Members National Guard	<i>Veterans' Agent</i>
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To see if the Town will vote to accept Massachusetts General Laws Chapter 59, § 5 Cl 56: <http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleIX/Chapter59/Section5>. "Upon the acceptance of this section by a city or town, the Board of Assessors may grant, real and personal property tax abatement up to 100 per cent of the total tax assessed to members of the Massachusetts National Guard and to reservists on active duty in foreign countries for the fiscal year they performed such service subject to eligibility criteria to be established by the board of assessors. The

authority to grant abatements under this section shall expire after 2 years of acceptance unless extended by a vote of the city or town”;

Or act in relation thereto.

ARTICLE 8:	Authorization to Accept Settlements – Payment for Damage to Trees on Town Common	<i>Board of Selectmen</i>
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To see if the Town will vote to authorize the Board of Selectmen to settle the Town’s claims for damage to trees on the Town Common upon such terms and conditions as the Board deems in the best interests of the Town, or take any other action relative thereto;

Or act in relation thereto.

ARTICLE 9:	Authorization to Enter Solar Net Metering Credit Sales Agreement Not to Exceed 30 Years	<i>Board of Selectmen</i>
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To see if the Town will vote to authorize the Board of Selectmen to enter into a solar net metering credit sales agreement for a term not to exceed thirty years in accordance with the following general terms: the Town will select a qualified renewable energy developer pursuant to a Request for Proposals issued by the Town; the developer will construct a PV solar system on land that is owned or leased by the developer and located within the same National Grid utility territory as the Town; no Town-owned land will be utilized; the electricity produced by the facility will be transferred to the National Grid power grid; the Town will be designated as the host customer in order to take advantage of the net metering provisions of the Massachusetts Green Communities Act and the implementing regulations; the Town will purchase from the developer up to 9.7 million kWh of electricity produced by the facility at a per kWh hour charge set forth in the agreement; the 9.7 kWh is the total amount of electricity consumed by the Town at its municipal buildings and facilities; the Town will designate each of its municipal electricity meters on a schedule to be submitted to National Grid which will provide a credit on the Town’s monthly electricity bill in the amount of the net metering credit established in tariffs issued by the Massachusetts Department of Public Utilities; because the net metering credit is anticipated to be significantly larger than the Town’s purchase price for the electricity produced at the solar facility, the Town will realize a net savings on its electricity bill; and further the Board of Selectmen is hereby authorized to negotiate the solar net metering credit sales agreement on such terms and conditions determined to be in the best interests of the Town;

Or act in relation thereto.

COMMUNITY PRESERVATION FUNDS

ARTICLE 10:	Community Preservation Committee Recommendation – Acquisition of a Conservation Restriction – O’Brien Farm*	<i>Community Preservation Committee</i>
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To see if the Town will vote, pursuant to Massachusetts General Laws Chapter 44B, in accordance with the recommendations of the Westford Community Preservation Committee, to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain or otherwise a conservation restriction meeting the requirement of General Laws Chapter 184 on a parcel of land known as the

O'Brien Farm located at 18 Vose Road, Assessors' Map Number 18, Parcel Number 121, upon a portion of approximately 23 acres of the O'Brien Farm, being a portion of the premises described in a deed recorded in the Middlesex Registry of Deeds in Book 23373, Page 60., to be under the care, custody, control, and management of the Westford Conservation Commission and Sudbury Valley Trustees and held for conservation purposes; and to transfer from the Community Preservation Undesignated Fund balance the sum of \$760,000 (SEVEN HUNDRED AND SIXTY THOUSAND DOLLARS) or any other sum to fund such acquisition; and further to authorize the Board of Selectmen to take such other action as may be necessary to carry out the purpose of this article;

Or act in relation thereto.

GENERAL BYLAW AMENDMENTS

ARTICLE 11:	Amend Chapter 33: Legal Affairs	<i>Board of Selectmen</i>
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To see if the Town will vote to amend Section 33.2 of the Town's General Bylaws, titled "Authority to settle certain claims", by changing the amount of \$1,000 (ONE THOUSAND DOLLARS) in the second sentence to \$100,000 (ONE HUNDRED THOUSAND DOLLARS);

Or act in relation thereto.

ARTICLE 12:	Amend Chapter 148: Streets and Sidewalks by Adding a New Section to Restrict Discharge of Water into Public Ways	<i>Board of Selectmen</i>
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To see if the Town will vote to amend the General Bylaws by adding the following new section 148.6 and renumbering subsequent sections:

Chapter 148.6 Discharging Water into Public Ways

No water shall be intentionally discharged onto or into any public ways or sidewalks of the town so as to cause a dangerous and/or defective condition;

Or act in relation thereto.

ARTICLE 13:	New Bylaw Authorizing Town to Make Temporary Repairs to Private Ways	<i>Board of Selectmen</i>
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To see if the Town will vote to amend the General Bylaws by adding a new Chapter as recommended in the Unaccepted Roads Committee Report as follows:

Chapter 149 Temporary Repairs to Private Ways

§ 149.1 Purpose and applicability.

1. Pursuant to Massachusetts General Laws Chapter 40, Section 6N, the Board of Selectmen is hereby authorized to make temporary repairs to private ways, constructed prior to 1955, which have been open to the public for a period of at least six (6) years, out of funds appropriated for said purpose by Town Meeting. In all cases, the entire cost shall be assessed as betterment on those properties which benefit from the repairs. Repair does not mean new construction.

2. The repairs shall be those required by public necessity, including but not limited to
 - a. The necessity of providing adequately drained ways so as to reduce ecologically harmful runoff into the Town's brooks and ponds; and
 - b. The necessity of providing adequate passable ways for public safety vehicles from public ways to residences, Town facilities and resources including access to Town conservation land.
 - c. The Board of Selectmen shall make the determination of public necessity.

§149.2 Types of Repairs.

1. The repairs must be temporary in nature, such as filling, grading, patching and surface coating, and may include such repairs to drainage swales, conduits and structures as are necessary to preserve the integrity of surface repairs to the roadway, and shall not be such as to constitute a reconstruction of the roadway.
2. The temporary repair shall have a minimum expected life equal to twenty (20) years.
3. Temporary repairs may be undertaken on a way subject to this bylaw, or to a continuous portion of such way, which portion begins and ends at an intersection or conjunction with another way.

§ 149.3 Petition.

A minimum of seventy five percent (75%) of the owners of property abutting the portion of the way proposed to be repaired must petition for the repair, with each ownership entity counting as one. The Board of Selectmen are authorized to waive this requirement.

§ 149.4 Betterment charges.

1. The owners of land abutting such way who derive benefit from said repairs shall be assessed betterment charges by the Board of Selectmen. Betterment charges, in an amount of one hundred percent (100%) of the aggregate cost to plan, prepare and repair the private way shall be assessed on a per lot basis or on the proportion of the lot frontage on the way or portion of the way to be repaired to the frontage of said repaired way or other proportional method as may be required by the Board of Selectmen.
2. The Town may be considered an abutter, if property under the care, custody and control of the Town abuts said way, to be repaired.
3. A cash deposit shall not be required.

§149.5 Status of way.

1. This bylaw does not confer any obligation or duty on the Town or its agents to either initially place or to thereafter maintain and repair said private ways so that they are reasonably safe and convenient for travel by being free from defects or want of repair.
2. The making of such temporary repairs to private ways, no matter how often or to what extent, does not constitute an acceptance by the Town of such private ways as public ways, nor does it constitute a way being "maintained and used as a public way" under the Massachusetts Subdivision Control Law.
3. Any private way repaired under the provisions of this bylaw need not be brought up to full Town standards and may continue to remain a private way. Repaired private ways may be brought to Town Meeting for acceptance as a public way by completing the steps outlined in the Town's Street Acceptance procedure, if any, adopted by the Board of Selectmen which may be amended from time to time, or otherwise as allowed by law.

§149.6 Liability.

The Town, in making repairs under this section shall not be liable for any damages to persons or property caused by negligent repair or maintenance of the private way.

§ 149.7 Indemnity Agreement.

No repair of a private way shall be undertaken until the Board of Selectmen has in its possession agreements executed by at least eighty five percent (85%) of abutting owners on the portion of the way to be repaired holding the Town harmless from any additional damage arising from any negligent repair, and which includes the following provisions:

- A. that the Town assumes no liability to such owners by making the repairs;
- B. jointly and severally, to indemnify and hold harmless the Town with respect to such statutory liability and any and all other liability for claims of injury, death or property damage to such owners or third parties caused by alleged defects in the way, including attorneys' fees and other costs of defense;
- C. that should the Town decide not to continue to provide temporary repairs to such way, the owners will themselves keep such way in good repair so as to minimize the liability of the Town for having undertaken such repairs;
- D. that such repair shall not constitute "maintenance" of such way, so as to give the way the status of a way "maintained and used as a public way" under the Massachusetts Subdivision Control Law; and
- E. that if assessed for repairs, the owners will not appeal the amount of the assessment and agree that the assessment may be apportioned over the number of years of the expected lifetime of the repair to be determined by the Board of Selectmen.

§ 149.8 Continually Open to Public Use.

Repairs or maintenance under this section shall not be performed on private ways that do not remain open to public use for at least twenty years.

Or act in relation thereto.

ARTICLE 14:	Amend Chapter 48: Tax Possession Sale Committee	<i>Citizen's Petition</i>
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To see if the Town will vote to amend Chapter 48 of the Town Bylaws to increase the size of the Tax Possession Sale Committee;

Or act in relation thereto.

LAND USE

ARTICLE 15:	Transfer Custody of Parcel 40 on Map 45 (Sawmill Road Parcel) From Tax Possession Sale Committee to the Conservation Commission	<i>Tax Possession Sale Committee</i>
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To see if the Town will vote to transfer the care, custody, control and management of a parcel of land located at the end of Sawmill Road identified as Parcel 40 on Westford Assessors' Map 45 from the Tax Possession Sale Committee presently held for the purpose of tax title sale to the Conservation Commission to be held for conservation purposes;

Or act in relation thereto.

ARTICLE 16:	Transfer Custody of Parcel 86 Map 7 (Vose Parcel on Acton Road) From Tax Possession Sale Committee to the Conservation Commission	<i>Tax Possession Sale Committee</i>
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To see if the Town will vote to transfer the care, custody, control and management of a parcel of town-owned land commonly known as the Vose parcel on Acton Road, further described as Parcel 86 on Westford Assessors' Map 7, from the Tax Possession Sale Committee currently held for tax title sale purposes to the Conservation Commission to be held for conservation purposes with the express restriction that the parcel not be used for parking purposes nor access to parking; and further that the Board of Selectmen be authorized and advised to grant by deed a permanent conservation restriction on said parcel, meeting the requirements of G.L. c. 184, Sections 31 to 33, to an eligible non-profit organization, said permanent deed restriction to expressly prohibit the use of the parcel for parking or access to parking;

Or act in relation thereto.

ARTICLE 17:	Authorize the Board of Selectmen to Enter Ninety-Nine Year Lease with MassDOT for the Portion Within Westford of Phase 2A of the Bruce Freeman Rail Trail	<i>Board of Selectmen</i>
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To see if the Town will vote to authorize the Board of Selectmen, for purposes of establishing, constructing, operating and maintaining Phase II of the multi-use rail trail/bicycle path for non-motorized transportation, open space and recreation purposes and for all other purposes for which rail trails are now or hereafter may be used in the Commonwealth, to acquire

by purchase, gift, eminent domain or otherwise fee, easement, leasehold, license and/or other real property interests in, on, over, across, under and along (a) all or any portion of the land, premises, easements, rights-of-way and other rights in Westford comprising the former Lowell Secondary Track railroad right-of-way acquired by the Commonwealth of Massachusetts (acting through its former Executive Office of Transportation and Construction) by deeds dated April 28 and November 29, 1982, and recorded in the Middlesex South District Registry of Deeds at Book 14609, Pages 302-317 and Book 14836, Pages 507-512, and (b) abutting and underlying properties as necessary for clearing title to said railroad right-of-way, laying out a rail trail/bicycle path in that right of way and within associated easements, and providing access to the rail trail area for construction, maintenance and repair purposes, on such terms and conditions as the Selectmen may determine, and further to see if the Town will raise, appropriate, transfer from available funds, or accept gifts for these purposes, or take any other action relative thereto.

Or act in relation thereto.

ZONING BYLAW AMENDMENT

ARTICLE 18:	Amend the Zoning Bylaws to allow Drive-Up Windows at Restaurants	<i>Citizen's Petition</i>
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To see if the Town will vote to amend the Zoning Bylaws of the town of Westford to allow drive-up windows at restaurants in the Commercial Highway (CH) District;

Or act in relation thereto.

LIQUOR LICENSES

ARTICLE 19:	Special Act to Issue (1) Additional All Alcoholic License Under Chapter 138 of Massachusetts General Laws, Retail Package Goods Store for all Kinds of Alcoholic Beverages Not to be Drunk on the Premises	<i>Citizen's Petition</i>
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To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for one (1) additional all alcohol off premises license to be exercised by Westford LC, LLC at the so-called Cornerstone Development located at 1 through 11 Cornerstone Square, said license not to be transferred to any other location; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court which are within the scope of the general public objectives of the petition, or take any action in relation thereto.

The petition for special legislation shall take the following form:

AN ACT AUTHORIZING THE TOWN OF WESTFORD TO ISSUE ONE ADDITIONAL LIQUOR LICENSE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. (a) Notwithstanding section 17 of chapter 138 of the General Laws or any other general or special, rule or regulation to the contrary, the licensing authority of the town of Westford may grant one (1) additional license for the sale of all alcoholic beverages to be consumed off premises under section 15 of said chapter 138 to Westford LC, LLC, or its

successor or assign, to be exercised at and located within the so-called Cornerstone Square development in said town. A license granted under this section shall be subject to all of said chapter 138 except said section 17.

(b) Once issued, the licensing authority shall not approve the transfer of the license issued under this section to any other location, but it may grant the license to a new applicant at the same location if the applicant files with the authority a letter from the department of revenue indicating that the license is in good standing with the department and that all applicable taxes have been paid.

(c) If the license granted under this section is cancelled, revoked or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority, which may then grant the license to a new applicant at the same location under the same conditions as specified in this section.

Or act in relation thereto.

And you, Constable, are directed to serve this warrant by posting a true and attested copy thereof at the Town Hall, Library and at each Post Office in said Town of Westford at least fourteen (14) days prior to the time of holding said meeting.

THEREOF FAIL NOT and make return of this warrant, with your doings thereon, to the Town Clerk, at the time and place of holding the meeting aforesaid.

Given under our hands this ____ day of _____ in the Year of our Lord 2012.

Andrea Peraner- Sweet (Chair)

Kelly Ross (Vice-Chair)

Jim Sullivan (Clerk)

Robert Jefferies

Valerie Wormell

TRUE COPY
ATTEST:

Constable of Westford

DATE:

I HEREBY CERTIFY THAT I HAVE SERVED THE FORGOING WARRANT BY POSTING A TRUE AND ATTESTED COPY THEREOF AT THE TOWN HALL, THE J.V. FLETCHER LIBRARY, AND AT EACH POST OFFICE IN THE SAID TOWN OF WESTFORD AT LEAST FOURTEEN DAYS PRIOR TO THE TIME OF HOLDING SAID MEETING.